

HUMAN SERVICES BOARD

INTRODUCTION

FINDINGS OF FACT

3. The car is used exclusively by the petitioner and her husband for usual household transportation. At first, the

petitioner alleged that her father-in-law made all the payments on the car, but she later acknowledged that she and her husband pay half of each monthly payment. Presumably, the petitioner and her husband are solely responsible for maintenance, repairs, and insurance.

4. The petitioner and her father-in-law maintain that the car cannot be sold without the father-in-law's permission. Although it is not clear how much each co-owner could legally claim if the car was sold at a profit, it is found that under the above circumstances the petitioner's husband must be considered at least a 50 percent joint owner of the car with his father.

5. There appears to be no dispute that the wholesale value of the car is at least \$9,000.

ORDER

The decision of the Department is affirmed.

REASONS

The regulations governing the Food Stamp program require that all resources of a household be evaluated when determining eligibility with certain specific exclusions, among those exclusions being "licensed vehicles" in certain circumstances.

F.S.M. § 273.8 (e)(3). The method for setting a valuation on vehicles is set forth in detail in F.S.M. § 273.8(g), which provides, in pertinent part, as follows:

The fair market value of licensed automobiles, trucks, and vans will be determined by the value of those vehicles as listed in publications written for the purpose of providing guidance to automobile dealers and loan companies. Publications listing the value of vehicles are usually referred to as "blue books". The State agency shall insure that the blue book used to determine the value of licensed vehicles has been updated within the last 6 months. The National Automobile Dealers Association's (NADA) Used Car Guide Book is a commonly available and frequently updated publication.

The State agency shall assign the wholesale value to vehicles. If the term "wholesale value" is not listed in a particular blue book, the State agency shall assign the listed value which is comparable to the wholesale value. The State agency shall not increase the based value of a vehicle by adding the value of low mileage or other factors such as optional equipment . . .

The regulations also set forth, in a very detailed way, criteria for counting or excluding the value of a licensed vehicle. Under F.S.M. § 273.8(h)(1), a vehicle can be excluded from the resource evaluation process only if it is used primarily to produce income, is necessary for long distance travel other than daily commuting essential to the employment of a household, is used as the household's home, or is necessary to transport a physically disabled household member. None of the above applies to the petitioner.

F.S.M. § 273.8(h)(3) provides:

All licensed vehicles not excluded under (h)(1) of this section shall individually be evaluated for fair market value and that portion of the value which exceeds \$4,650 shall be attributed in full toward the household's resource level, regardless of any encumbrances on the vehicles. For example, a household owning an automobile with a fair market value of \$5,650 shall have \$1,000 applied toward its resource level. Any value in excess of \$4,650 shall be attributed to the household's resource level, regardless of the amount of the household's investment in the vehicle, and regardless of whether or not the vehicle is used to transport household members to and from employment. Each vehicle shall be appraised individually. The fair market values of two or more vehicles shall not be added together to reach a total fair market value in excess of \$4,650.

The instant case is complicated by the fact that the petitioner's husband is a joint owner of the car with his father, who is not a member of his household. In treating joint resources, F.S.M. § 273.8(d) provides, in pertinent part:

Resources owned jointly by separate households shall be considered available in their entirety to each household, unless it can be demonstrated by the applicant household that such resources are inaccessible to that household. If the household can demonstrate that it has access to only a portion of the resource, the value of that portion of the resource shall be counted toward the household's resource level. The resource shall be considered totally inaccessible to the household if the resource cannot practically be subdivided and the household's access to the value of the resource is dependent upon the agreement of the joint owner who refuses to comply.

The Department maintains that the above provisions regarding jointly owned resources do not apply to licensed vehicles, and that the entire value of any jointly owned vehicle

is attributable to the Food Stamp household regardless of the circumstances of its ownership. In this case, it has been found that the petitioner's husband is only a 50 percent joint owner of the car in question. However, in light of the car's high value, even the amount of his 50 percent interest places the household well in excess of the resource maximum. Therefore, the Board need not reach the issue of whether § 273.8(d) applies to licensed vehicles.

As noted above, the petitioner's 2001 Saturn is worth at least \$9,000, probably much more. Under F.S.M. § 273.8(h)(3) (supra) its value over \$4,650 is countable as a resource to the household. The resource limit under the Food Stamp program for households without an elderly member is \$2,000. F.S.M. 273.8(b). Therefore, even if the petitioner's interest in the value of the vehicle is only 50 percent, that interest--i.e., 50 percent of the value over \$4,650--is well in excess of \$2,000.

Therefore, it must be concluded that the Department's decision terminating the petitioner's Food Stamps was in accord with the regulations as they existed in January, 2001, whether or not the joint ownership provisions of § 273.8(d) applied to licensed vehicles. As such, the Board is bound to affirm the Department's decision. 3 V.S.A. § 3091(d) and Fair Hearing Rule No. 17.

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